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Proposition 3: The Children's Hospital Bond Act of 2008

Brian Briggs

University of the Pacific, McGeorge School of Law

Tessa Mayer

University of the Pacific, McGeorge School of Law

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CALIFORNIA INITIATIVE REVIEW

Proposition 3:

The Children's Hospital Bond Act of 2008

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By

Brian Briggs

*J.D. University of the Pacific, McGeorge school of Law, to be conferred December 2009
B.S. in Business Administration with a Concentration in Real Estate and Land Use Affairs
Special Major Film Studies, California State University Sacramento, 2004*

and

Tessa Mayer

*J.D., University of the Pacific, McGeorge School of Law, to be conferred December 2009
B.A. Criminal Justice, California State University Sacramento, 2006*

Analysis of Proposition 3

Table of Contents

I.	Executive Summary	1
II.	The Law	1
A.	Legislative History	1
B.	Current Funding	2
i.	State Funding from Proposition 61	2
ii.	Joint State & Federal Funding through Medicaid	3
iii.	Federal Funding	3
C.	Effects of Proposition 3	5
III.	Drafting Issues	6
A.	Ambiguous Terms	6
B.	Severability	6
IV:	Constitutional Issues	7
A.	Federal Constitution	7
B.	State Constitution	8
i.	General Obligation Bond	8
ii.	The Single Subject Rule	8
V:	Public Policy Considerations	8
A.	Proponents	8
B.	Opponents	9
VI:	Conclusion	10

I. Executive Summary

Proposition 3, the Children’s Hospital Bond Act of 2008, authorizes \$980 million in general obligation bonds for grants to children’s hospitals. Legislative Analyst’s Office, *Children’s Hospital Bond Act of 2008*, <http://www.lao.ca.gov/ballot/2007/070659.aspx> (accessed September 9, 2008). The money raised from the bond sales must directly fund or reimburse costs of capital improvement projects for children’s hospitals, including construction, expansion, remodeling, renovation, furnishing, equipping, financing, or refinancing. Proposition 3, §1179.51(g)(2008)(http://ag.ca.gov/cms_pdfs/initiatives/2007-07-24_07-0034_Initiative.pdf).

Proposition 3 follows Proposition 61, the Children’s Hospital Bond Act of 2004 (passed) and contains virtually identical provisions. Proposition 3 and The Children’s Hospital Bond Act of 2004 state the same goal: to improve the health, welfare, and safety of California’s children by providing the funds necessary to enhance hospital services without burdening those families unable to afford critical care. *Id.* at § 1179.50(a)-(f); Ca. Stat §1179.21(2004). Like The Children’s Hospital Bond Act of 2004, Proposition 3 is a general obligation bond that specifically awards twenty percent (20%) of total funds to five University of California children’s hospitals (“UC hospitals”), with the remaining funds awarded to eight other eligible hospital applicants. Proposition 3, § 1179.56(a); Ca. Stat §1179.11(b)(1). Proposition 3 limits the field of eligible applicants to the same thirteen hospitals that qualified under The Children’s Hospital Bond Act of 2004. 3 §1179.51(b)(2). Thus, Proposition 3 does not meet the needs of emerging children’s hospitals that were unable to qualify as of June 29 2002, but could qualify thereafter. *Id.*

Proposition 3 mirrors the 2004 Act’s eligibility criteria for hospital applicants and continues to confer authority to the California Health Facilities Financing Authority (“CHFFA”) for grant development, processing, and award. Proposition 3, § 1179.57(a)-(h); Ca. Stat §1179.11(b)(1). Applicants must submit a written application to the CHFFA, who than has sixty (60) days after receiving an application to develop, process, and award the grant. Proposition 3, § 1179.57(b)(2). CHFFA may award grant monies based on several subjective factors outlined in Proposition 3, generally focusing on improvement of children’s hospital facilities in under funded areas and education. *Id.* at, § 1179.57(a)(1-3).

General obligation bonds like Proposition 3 require the State to make annual principal and interest payments on the bond debt out of the state General Fund. *An Overview of State Bond Debt*, http://www.lao.ca.gov/ballot/2008/bond_11_2008.aspx (accessed September 9, 2008); Proposition 3 §1179.63-66 (2008). The California Attorney General estimates that Proposition 3 will cost \$64 million annually and \$2 billion over the next thirty (30) years. *Proposition 3 Official Title & Summary*.

II. The Law

A. Legislative History

Proposition 3 did not originate in the California legislature, it was drafted and placed on the ballot by the Children’s Hospital Association.

B. Current Funding

Current funding for children’s hospitals in California comes primarily from the state and the federal government.

i. State Funding from Proposition 61

Children’s hospitals in California received millions of dollars from Proposition 61, which authorized \$750 million dollars in bonds. As of December 31, 2007, all five of the Proposition 3 and 61 UC hospitals and eight other eligible hospitals either received or qualified for the maximum allowable disbursement. California Health Facilities Financing Authority, *Annual Report Children’s Hospital Program*, <http://www.treasurer.ca.gov/chffa/hospital/2008annual.pdf> (accessed September 9, 2008). However, most UC hospitals did not actually receive funds that they qualified for and four of the eight eligible hospitals received less than half of the authorized grant. *Id.* In fact, fifty-six percent (56%) of the total funds disbursed under Proposition 61 thus far went to two hospitals in Los Angeles, UCLA and the Children’s Hospital of Los Angeles (see Proposition 61 Disbursement Chart *Fig. 1-A*, below). *Id.* Moreover, the CHFFA has not disbursed sixty-eight percent (68%) of the \$742 million authorized.

Figure 1-A Proposition 61: Children’s Hospital Bond Act 2004 Disbursement Chart

Hospitals Specifically Identified as Eligible	Authorized	Disbursed	Remaining
University of California, Los Angeles	\$30,000,000	\$29,827,500	\$172,500
University of California, Irvine	\$30,000,000	0	\$30,000,000
University of California, Davis	\$30,000,000	\$8,245,823	\$21,754,177
University of California, San Diego	\$30,000,000	0	\$30,000,000
University of California, San Francisco	\$30,000,000	0	\$30,000,000
Additional Eligible Hospitals			
Rady Children’s Hospital, San Diego	\$74,000,000	\$11,258,181	\$62,741,819
Children’s Hospital Los Angeles	\$74,000,000	\$72,188,287	\$1,811,273
Children’s Hospital and Research Center, Oakland	\$74,000,000	\$1,695,274	\$72,304,726
Children’s Hospital of Orange County	\$74,000,000	\$19,327,979	\$54,672,021
Loma Linda Children’s Hospital	\$74,000,000	0	\$74,000,000
Lucile Salter Packard Children’s Hospital at Stanford University	\$74,000,000	\$51,375,519	\$22,624,481

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Continued from Pg. 2

Additional Eligible Hospitals	Authorized	Disbursed	Remaining
Miller’s Children’s Hospital, Long Beach	\$74,000,000	\$31,495,693	\$42,504,307
Children’s Hospital Central California	\$74,000,000	\$8,821,232	\$65,178,768

<i>Total:</i>	\$ 742,000,000	\$234,235,488	\$507,764,512
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Source: *Id.*

ii. Joint State & Federal Funding through Medicaid

Hospitals nationwide also receive significant funding from joint state-federal programs such as Medicare and Medicaid. While it is difficult to say exactly how much money went to hospitals as opposed to private physicians or clinics, in 2006 California contributed \$1,142 per child enrolled in Medicaid for a total of \$557,668,170 statewide. StateHealthFacts.Org, *California: Medicaid & SCHIP*, <http://www.statehealthfacts.org/profileind.jsp?cat=4&sub=47&rgn=6> (accessed September 14, 2008). The federal government paid \$1,617 per child or \$980,749,941 statewide. *Id.*

iii. Federal Funding

The United States Department of Health and Human Services provided over 3.16 billion dollars to hospitals and research facilities in California during 2007. U.S. Department of Health and Human Services, *Research Portfolio Online Reporting Tool, State Detail*, http://report.nih.gov/award/trends/State_Congressional/StateDetail.cfm?year=2007&state=CA (accessed September 12, 2008). Most of the eligible children's hospitals under Proposition 61 also received significant funding for medical research from the Department of Health and Human Services. *Id.* The federal funding figures of the University of California Hospitals represent money which went to the parent universities and not directly to the UC children's hospitals, however, some percentage of those funds were no doubt used to support the children's hospitals. *Id.*

Figure I-B Dept. of Health and Human Services Disbursement Chart 2006

Universities with Hospitals Specifically Identified as Eligible	Funding Received
University of California, Los Angeles	\$373,202,174
University of California, Irvine	\$121,608,539
University of California, Davis	\$158,443,967
University of California, San Diego	\$316,260,010
University of California, San Francisco	\$438,999,174
Additional Eligible Hospitals / Universities	
Rady Children's Hospital, San Diego	0
Children's Hospital Los Angeles	\$21,957,212
Children's Hospital and Research Center, Oakland	\$23,625,800
Children's Hospital of Orange County	\$181,008
Loma Linda University	\$10,244,825
Stanford University	\$304,732,407
Miller's Children's Hospital, Long Beach	0
Children's Hospital Central California	0

Source: *Id.*

Federal aid also comes from the Children's Hospitals Graduate Medical Education Program (CHGME), passed by Congress in September of 2006. Children's Hospitals Graduate Medical

Education Payment Program, 2008 Annual Report, <http://bhpr.hrsa.gov/childrenshospitalgme/annualreport/default.htm> (accessed October 20, 2008). This program funds “freestanding” children’s hospitals that provide services to Medicaid recipients. *Id.* CHGME also provides significant funding to six of the eight independent (non UC) children’s hospitals eligible under Proposition 3. *Id.* In order to comply with CHGME and receive funding hospitals must submit an annual report that states (among other things): 1) the types of training programs the hospital provided for residents; 2) the number of training positions for residents; 3) the types of training that the hospital provided for residents related to the health care needs of children who are underserved; 4) changes in residency training including changes in curricula, training experiences, and types of training programs; and 5) the numbers of residents who completed training. *Id.* CHGME does not require states to provide matching funds. *Id.*

Figure 1-C shows 2007 CHGME grants to children’s hospitals that are also eligible for additional funding under Proposition 3:

Figure 1-C CHGME (Program) Disbursement Chart 2006

Eligible Hospitals	Funding Received
Rady Children’s Hospital, San Diego	\$4,229,721.98
Children’s Hospital Los Angeles	\$9,639,221.30
Children’s Hospital and Research Center, Oakland	\$7,692,377.04
Children’s Hospital of Orange County	\$2,478,554.67
Loma Linda University Children’s Hospital	0
Lucile Salter Packard Children’s Hospital at Stanford	0
Miller’s Children’s Hospital, Long Beach	\$3,736,395.69
Children’s Hospital Central California	\$672,295.54

Source: Graduate Medical Education Payment Program, *FY 2007 CHGME PP awards*, <http://bhpr.hrsa.gov/childrenshospitalgme/2007/awards.htm> (accessed September 14, 2008).

Finally, hospitals also receive funding under Title V of the Social Security Act (“Title V”). The health status goals and objectives of Title V are centered on the needs of low-income or disabled children and mothers. U.S. Dept. of Health and Human Services, *Understanding Title V of the Social Security Act*. <ftp://ftp.hrsa.gov/mchb/titlevtoday/UnderstandingTitleV.pdf> (accessed October 11, 2008). Unlike other sources of federal and state funding, Title V is specifically directed at providing care for children. Their aims are:

...To provide and assure mothers and children (especially those with low income or limited availability to services) access to quality ... services;

To reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children.....

To provide rehabilitation services for blind and disabled individuals under the age of 16 years receiving benefits under Title XVI

To provide and promote family-centered, community-based, coordinated care for children with special health care needs... *Id.*

Money disbursed under Title V must be matched three-to-one by state funds. *Id.* The money also must *not* be used for construction, purchases of land or equipment, or providing funds for

research and training. *Id.* In contrast, Prop 3 specifically allows for funding for all of the above. Proposition 3, §1.

C. Effects of Proposition 3

Proposition 3 would add Part 6.1, the Children’s Hospital Bond Act of 2008, to Division 1 of the California Health and Safety Code commencing with Section 1179.50. Proposition 3 §1 & 1179.50(a). Proposition 3 does not substantively alter the effects of Proposition 61. Rather, Proposition 3 seeks additional funds and a longer disbursement period.

Approval of Proposition 3 will authorize the Children’s Hospital Bond Act Finance Committee (“The Committee”) to sell up to \$980 million of state general obligation bonds to directly fund or reimburse the cost of capital improvement projects to qualified children’s hospitals. *Id.* at §1179.62. The Committee shall decide upon the desirability of issuing bonds and what amounts to sell. *Id.* The Committee may issue bonds progressively and need not sell nor issue all of the bonds at any one time. *Id.*

Proposition 3 vests with the CHFFA discretionary authority over the grant application process and also directs the distribution of funds with twenty percent (20%) to the UC hospitals and eighty percent (80%) to other qualified applicants. *Id.* at §1179.55(a)-(b). In order to receive a grant for a capital improvement project, applicants other than UC hospitals must qualify as a “Children’s Hospital” within the meaning of Proposition 3. *Id.* at §1179.51, 56(b). Proposition 3 promulgates a two tiered qualification process.

First, a hospital must meet the minimum criteria required to make an application for CHFFA review. The minimum requirements for an applicant include:

- 1) Status as a California nonprofit corporation or as the operating entity of such an organization, established prior to January 1, 2003, whose mission focuses on child care;
- 2) Reported to the Office of Statewide Health Planning and Development on or before July 2003, for the fiscal year ending between June 30 2001, and June 29, 2002:
 - a) 160 licensed beds in specific pediatric care specialties;
 - b) Medical education for at least eight (8) pediatric residents; and
 - c) Over 30,000 total pediatric patient days excluding nursery acute days. *Id.* at §1179.51(b)(2).

To calculate “patient days,” multiply the number of patients in a hospital by the number of days each patient spent in the facility. Rand California, Health and Socioeconomic Statistics, *Rand California Hospital and Long Term Care Utilization Glossary*, <http://ca.rand.org/stats/health/ltc.defs.html> (accessed September 15, 2008). For example, if 1000 pediatric patients were in the hospital for thirty (30) days each, the hospital would have 30,000 total patient days and would need only one additional patient day to meet the Proposition 3 standard. *Id.* If a hospital seeking funds does not meet the minimum criteria above, it is not eligible to apply for funds under Proposition 3. *Id.*

During the second phase of the qualification process hospitals must make a written application to the CHFFA requesting funds. *Id.* at §1179.57(b)(1). The CHFFA must process and award grants no more than 60 days after receiving an application. *Id.* at §1179.57(b)(2). CHFFA has discretion to award grants based on the following six factors:

- 1) Expansion and improvement of health care access by children for government health insurance programs and indigent, underserved, and uninsured children;
- 2) Improvement of child health care or pediatric patient outcomes;
- 3) Provision of uncompensated or undercompensated care to indigent or public pediatric patients;
- 4) Service to vulnerable pediatric populations;
- 5) Promotion of pediatric teaching or research programs;
- 6) Demonstration of project readiness and feasibility. *Id.* at §1179.57(a).

Proposition 3 also confers additional limitations on the CHFFA and hospital applicants. Proposition 3 prohibits the specified UC hospitals from applying for, and the CHFFA from granting those hospitals, more than one-fifth (1/5) of total funds available. *Id.* at §1179.57©. Similarly, non-university hospital applicants may not apply for, nor may the CHFFA award, more than \$98 million. *Id.* at §1179.57(d). However, both of those restrictions sunset on June, 30, 2018, at which point all remaining funds become available to all applicants. *Id.* Proposition 3 allows the CHFFA to demand return of all or a portion of the grant if the recipient failed to complete the project within a reasonable time. *Id.* at §1179.57(f). Moreover, the CHFFA need only disburse when it determines that sufficient funds are available. *Id.* at §1179.57(g). Finally, administrative costs shall be the lesser of actual cost or one percent (1%) of bond funds with oversight by the Bureau of State Audits. *Id.* at §1179.57(h).

III. Drafting Issues

A. Ambiguous Terms

Proposition 3 is generally clear with only one ambiguous term. Proposition 3 §1179.57(f) states: “All projects that are awarded grants shall be completed within a reasonable period of time.” Proposition 3 provides definitions for “children’s hospital,” “committee,” “fund,” “grant,” “program,” and “project,” but fails to provide a definition for “reasonable time.” Under the terms of Proposition 3 a hospital’s failure to complete a capital improvement project on time may result in the CHFFA seeking remedies including return of grants monies. *Id.* Barry Scarff, CHFFA project manager, states that the application process for Proposition 3 and Proposition 61 includes a “determination of feasibility.” Interview with Barry Scharff, CHFFA Project Manager. (October 13, 2008). CHFFA uses the determination of feasibility to evaluate how much money and time will be needed to complete the proposed project. *Id.* Mr. Scarff emphasized that timeliness is determined on a case-by-case basis. *Id.* For example, large scale construction projects might take three to four years to complete while other projects, such as smaller scale construction or the purchase of equipment, might progress much more quickly. *Id.*

B. Severability

Proposition 3 contains a severability clause in section 1179.72 which allows any provision found invalid to be severed from the valid portions so long as the other provisions can be given effect without the invalid provision or its application. *Id.* The severability clause in

Proposition 3 states: “Notwithstanding any other provisions of this part, the provisions of this part are severable. If any provision of this part or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.” Proposition 3, §1179.72. *Gerken v. Fair Political Practices Comm’n*, 6 Cal. 4th 707 (1993), established three factors for courts to use when determining whether an invalid section of a bill can be severed from a valid section. Any invalid provision(s) must be grammatically, functionally, and volitionally separable before they can be found severable. *Id.*

A provision is grammatically separable if it is distinct and separate and can be removed as a whole without affecting the wording of any of the measure’s other provisions. *Hotel Employees and Restaurant Employees International Union v. Davis*, 21 Cal. 4th 585, 613 (1999). Proposition 3 is written and divided into logical, cohesive sections that provide clear definitions. Chapter 1 contains General Provisions; Chapter 2 discusses The Program; and Chapter 3 includes Fiscal Provisions. Proposition 3, §1179.50-1179.72. Chapters 2 and 3 contain only internal references. *Id.* Chapter 1 refers to the Children’s Hospital Bond Act Fund created by Chapter 2 and also to the Children’s Hospital Bond Act Finance Committee created by Chapter 3. *Id.* at §1179.50©-(d). Therefore, Chapters 2 and 3 of Proposition 3 are grammatically severable but Chapter 1 is most likely not severable.

A provision is functionally separable if it is not necessary to the measure’s operation and purpose. *Hotel Employees*, Cal. 4th 585 at 613. While many sections of Proposition 3 are vital to the measure’s operation and purpose, many could also be removed. The vital sections include all of Chapter 1, definitions of terms within the Proposition, and §1179.57, the application process. Chapter 1 could not be severed because Chapters 2 and 3 continuously use the terms defined in Chapter 1. Removal of Chapter 1 could make those terms ambiguous and unenforceable. Section 1179.57 is not severable because eliminating that section would affect the operation and purpose of the Proposition. Therefore, the proposition could not exist without Chapter 1 or §1179.57.

A provision is volitionally separable if it is not of critical importance to the measure’s enactment or if it appears that the valid portions would have been adopted had the legislative body foreseen the partial invalidity of the statute. *Hotel Employees*, 21 Cal. 4th 585 at 613; *Calfarm Ins. Co. v. Deukmejian*, 48 Cal. 3d at 821-22. Generally, provisions that are not functionally severable are not volitionally separable. *Id.* Courts look to severability clauses as the intent of Legislature to retain as much of the Act as possible in the event some portion becomes invalid. *Santa Barbara School Dist. v. Superior Court of Santa Barbara County*, 13 Cal. 3d 315, 331. Before severing any portion the court would consider the proposition’s intent. Next, the court would determine whether a severed act could still accomplish that goal. *Id.* If the goal could be achieved in the absence of invalid sections, the Act would be preserved. *Id.* A court would likely hold most sections of Proposition 3 volitionally separable for the same reasons it would consider it functionally separable, with exceptions as stated above.

IV: Constitutional Issues

A. Federal Constitution

Proposition 3 does not present any federal Constitutional issues on its face. State bond funding usually does not implicate federal constitutional concerns. However, certain First Amendment Establishment Clause arguments could arise if state funding was used to support religious

institutions. Here, one of the hospitals, Loma Linda University Medical Center, is a qualified Proposition 3 recipient and a Seventh-day Adventist facility. Loma Linda University, *About Loma Linda University Medical Center*, <http://lomalindahealth.org/medical-center/about-us/index.html> (accessed October 12, 2008); U.S. Const. Amend. I. This issue was resolved by the Supreme Court in *Brown v. Kendrick*. 487 U.S. 589 (1988). In that case the Court held that federal grant funds supporting adolescent pregnancy awareness programs were not unconstitutional even though religious organizations received grants because religious institutions should not be “quarantined from public benefits that are neutrally available to all.” *Id.*, at 608. Therefore, any attack on Proposition 3 under the Establishment Clause would likely fail, although some issue may be raised about whether the proceeds from these bonds are “neutrally available to all” given the limited number of qualifying hospitals. This might be a challenge that opponents seek to pursue should the measure pass.

B. State Constitution

i. General Obligation Bond

Under the California Constitution, Article XVI, section 2, any preparation, issuance, or sale of state bonds requires approval of a majority of the voters. When the State issues and sells bonds it raises funds by borrowing money from investors and agreeing to pay that debt or principal with interest over a period of time. Legislative Analyst Office, *An Overview of State Bond Debt*, http://www.lao.ca.gov/ballot/2008/bond_11_2008.aspx (accessed September 9, 2008). General obligation bonds like Proposition 3 require that the State General Fund satisfy scheduled bond payments and that proceeds of bond sales to flow to the General Obligation Bond Expense Revolving Fund as reimbursement and a credit to expenditures for bond interest. Cal. Govt. Code §16724.5; Proposition 3 §1179.63-67. On its face Proposition 3 seems to conform to the requirements of the State Constitution and State General Obligation Bond Law because it provides for reimbursement of costs through sale proceeds with voter consideration scheduled for November 2008.

ii. The Single Subject Rule

Initiative measures in California may embrace only one subject. Cal. Const. Art. II, §8(d). The initiative’s various programs must be reasonably related to a common theme or purpose and be “reasonably germane” to each other. *Manduley v. Superior Court*, 27 Cal.4th 537,575 (2002); *Senate v. Jones*, 21 Cal.4th 1142, 1157 (1999). Proposition 3 does not violate the single subject rule on its face.

V: Public Policy Considerations

A. Proponents

Supporters of Proposition 3 claim that California needs more money to fund the expansion of children’s hospitals and increase the availability of treatment for seriously ill or injured children without regard to a family’s ability to pay. *California Official Voter Guide*, Argument in Favor of Proposition 3 (2008). Treatment provided by children’s hospitals saves hundreds of lives a day and over a million lives a year. *Id.* The hospitals that qualify for funds

under Proposition 3 perform essential pediatric services within the state, like providing eighty-eight percent (88%) of inpatient care for child heart surgery. *Id.*

Proponents of Proposition 3 argue that California's children's hospitals do not have adequate capacity and Proposition 3 will increase the number of hospital beds. *California Official Voter Guide*, Argument in Favor of Proposition 3 (2008). Life-threatening illnesses like Leukemia and sickle cell anemia require increasingly specialized treatment and Proposition 3 will give hospitals the funds necessary to purchase the most advanced technologies available. *Id.*

The proponents also claim that Proposition 3 does not raise taxes even though tax revenue supports the state General Fund from where annual payments on the Proposition bonds will originate. *Id.* Moreover, the Children's Hospital and Research Center in Oakland states that one of the benefits of approving Proposition 3 is that the actual average cost to each Californian is \$1.75 per year. Children's Hospital and Research Center in Oakland, *Proposition 3 Bond Act Benefits 13 California Regional Children's Hospitals*, http://www.childrenshospitaloakland.org/FrontPage/Proposition_3.asp (accessed September 9, 2008.) California needs Proposition 3 because the child population continues to grow and construction costs increase regularly. *Id.* Proponents also assert that the \$2 billion bond including principal and interest provided for in Proposition 3 is one of the smallest bonds ever. *California Official Voter Guide*, Rebuttal to Argument Against Proposition 3. Further, Proponents of Proposition 3 have responded to allegations that the hospitals funding the proposition will personally benefit by stating that these allegations are "mean-spirited, hypocritical, and untrue." *Id.*

Proposition 3 is supported by: the California Children's Hospital Association; Jamie Lee Curtis; Rady Children's Hospital, San Diego; Children's Hospital Los Angeles; Children's Hospital and Research Center, Oakland; Children's Hospital of Orange County; Loma Linda University Children's Hospital; Lucile Salter Packard Children's Hospital at Stanford; Miller's Children's Hospital, Long Beach; Children's Hospital Central California; and the children's hospitals of UC Los Angeles; UC Irvine; UC Davis; UC San Diego; and UC San Francisco. California Secretary of State, *Campaign Finance: Proposition 3*, <http://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1301053&session=2007> (accessed September 9, 2008); Yes on 3, *Imagine with us*, <http://imaginewithus.org/> (accessed September 9, 2008); and the League of Women Voters of California. League of Women Voters, *Vote Yes on Proposition 3 on the Nov. 4 2008 Ballot*, <http://ca.lwv.org/action/prop0811/prop3.html> (accessed October 10, 2008).

B. Opponents

Opponents of Proposition 3 characterize the "yes" campaign as "an abuse of the initiative process." Ballotpedia.org, *California Proposition 3*, http://ballotpedia.org/wiki/index.php/California_Proposition_3_%282008%29 (accessed October 20, 2008). They argue that children's hospitals are a well-funded private interest group using the initiative process to personally benefit. *Id.* The supporters and primary contributors to Proposition 3 include all eight private hospitals set to receive millions of dollars if this bond passes. California Secretary of State, *Campaign Finance: Proposition 3*, <http://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1301053&session=2007> (accessed on September 10, 2008). Further, that it is

virtually identical to the Children's Hospital Bond Act of 2004 except that this proposition asks for hundreds of millions of dollars more. *Id.* Children's hospitals still had over \$500 million dollars remaining from Proposition 61 as of December of 2007. (See Figure 1-A at Pg. 2). The fact that fifty-six percent (56%) of the total funds disbursed thus far went to two (2) hospitals in Los Angeles: UCLA and the Children's Hospital of Los Angeles, fuels the opponents claim that special interest groups support Proposition 3. Six of the thirteen eligible hospitals are in either San Diego, Long Beach, or Los Angeles – a county where as many as 10.2% of its 10 million person population are illegal immigrants. San Diego Report, *Illegal Immigration Could Cost Taxpayers Trillions*, <http://www.10news.com/news/9620142/detail.html> (accessed September 10, 2008). That fact adds some legitimacy to the opponent's claim that "a driving force behind this measure is to provide a backdoor way of compensating hospitals for treating indigents (including illegal aliens) who don't pay their way through the front door." *California Official Voter Guide*, Rebuttal to Argument in Favor of Proposition 3.

Proposition 3 also maintains a closed pool by limiting the eligible hospitals to those that qualified in 2002. Proposition 3 § 1179.51(b)(2). Therefore, no children's hospitals built after 2001 could even apply. Moreover, despite the proponent's emphasis on "regional children's hospitals," there are no hospitals north or east of Sacramento that can qualify to receive funding under Proposition 3 – even if someone wanted to build a children's hospital. *California Official Voter Guide*, Argument in Favor of Proposition 3, (See Figure 1-A at Pg. 2).

Finally, the opponents disagree with the position that Proposition 3 does not raise taxes. Opponents state that this bond's principal and interest will come to nearly \$2 billion over 30 years. *California Official Voter Guide*, Rebuttal to Argument in Favor of Proposition 3.

They point out that this money will have to come from somewhere: either taxes will be raised or other state expenditures, such as schools, law enforcement, or parks, will be reduced. *Id.* California is already deeply in debt and its credit rating causes high bond interest rates. *Id.* "[A]dding bonded indebtedness for anything but the most essential infrastructure is unwise to the point of absurdity." *Id.* "Now is not the time to saddle ourselves, our children, and our grandchildren with more debt." *Id.*

The opponents include: Lewis K. Ulher, President National Tax Limitation Committee; Ted Gaines, California State Assemblyman; James V. Lacy, Director American Conservative Union; Edward Costa, President People's Advocate; Jon Fleischman, Publisher Flashreport.org; The Howard Jarvis Taxpayer's Association. *California Official Voter Information Guide*, Rebuttal to Argument in Favor, Argument against Proposition 3.

VI: Conclusion

Proposition 3, The Children's Hospital Bond Act of 2008, would raise \$980 million through the sale of general obligation bonds to fund the expansion and improvement of thirteen hospitals across the state. Under Proposition 3 the CHFFA would continue to wield discretionary authority over the disbursement of funds to hospital applicants. At least twenty percent (20%) of the funds would flow to five University of California hospitals. The remaining eighty percent (80%) would flow to approved applicants with each applicant limited to a maximum grant of \$98 million. After June 30, 2018, all remaining funds become open to any applicant in any denomination. Proposition 3 would continue the regulatory scheme established under Proposition 61 with increased funds and a longer disbursement period." Proposition 3, §1.

Proponents of Proposition 3 claim that providing free medical service to children in need is vital and that the funds disbursed from Proposition 3 will ensure that California's children's hospitals may expand and improve in the near future. California Official Voter Information Guide, *Argument in Favor of Proposition 3*. Opponents claim that Proposition 3 is funded by special interest groups seeking to subsidize medical care for illegal immigrants in California and that more bond debt presents dangerous challenges for the state. *California Voter Information Guide*, Rebuttal to Argument in Favor of Proposition 3. Recent polls show that forty-seven percent (47%) of Californians support Proposition 3 with thirty-five percent (35%) against and eighteen percent (18%) undecided. Steve Wiegand, *Field Poll: Voters who've heard of Proposition 3 tend to favor it*, Sacramento Bee A4 (Sept. 30, 2008).